

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 7325**

**BILL NUMBER:** HB 1355

**NOTE PREPARED:** Feb 7, 2003

**BILL AMENDED:** Feb 6, 2003

**SUBJECT:** Massage Regulation.

**FIRST AUTHOR:** Rep. Moses

**FIRST SPONSOR:**

**BILL STATUS:** CR Adopted - 1<sup>st</sup> House

**FUNDS AFFECTED:** X **GENERAL**  
**DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill establishes a five person Board of Massage Therapy. It provides for the licensing of massage therapists by the Board. The bill also specifies requirements that applicants must meet in order to be licensed as massage therapists.

The bill establishes guidelines for the licensing by endorsement of a massage therapist who holds a license in another state. It provides that a knowing violation of the massage therapist licensing law is a Class C misdemeanor. The bill also establishes penalties for the unauthorized practice of massage therapy.

**Effective Date:** June 1, 2003; July 1, 2003.

**Summary of Net State Impact:** The initial operating costs of this bill could potentially cost the Health Professions Bureau (HPB) \$26,000 for three years and then a minimum of \$6,700 annually thereafter. The amount of revenue potentially generated from issuing a new license is dependent on the number of professional massage therapist applicants.

**Explanation of State Expenditures:** This bill establishes the five-member Board of Massage Therapy. According to the Health Professions Bureau (HPB), the start-up costs for a new board are greater than the annual costs once it is established. Based on a five-member board recently established with the HPB, the initial operating costs would be approximately \$80,000 over a period of roughly three years, or approximately \$26,600 annually for three years. Depending on revenue balances from licenses issued by all of HPB's boards, HPB could potentially absorb a portion of these costs.

Once the Board is established, the estimated annual cost of travel and per diem for board member meetings

would be approximately \$10,000. However, the Board is only required to meet at least two times per year, so the minimum annual cost of the Board is approximately \$900. All expenses accrued by the Board would be paid out of the General Fund. The HPB could also incur \$5,800 annually for other costs including postage, printing, telephone, and supplies. The total estimated minimum annual cost for the Board and expenses is \$6,700.

The Health Professions Bureau, which would provide staff to the Board, may require an additional COMOT 3 position to manage the new board. If additional staff is needed, the cost of one position is approximately \$31,800 in FY 2004 and \$31,200 in FY 2005.

The funds and resources required above could be supplied through a variety of sources, including the following: (1) Existing staff and resources not currently being used to capacity; (2) Existing staff and resources currently being used in another program; (3) Authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) Funds that, otherwise, would be reverted; or (5) New appropriations. As of January 2003, the HPB employed 48 authorized full-time staff members, as four positions were vacant: two program coordinators, and two secretaries. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

The bill requires the Board to adopt a licensing exam or approve an examination other than the National Certification Exam for Therapeutic Massage and Bodywork to provide to an applicant for licensure as a massage therapist. If the Board develops an examination for massage therapy licensure, additional expenses could occur.

**Explanation of State Revenues:** (Revised) This bill would establish licensure of massage therapists. Data acquired from the National Certification Exam for Therapeutic Massage and Bodywork (NCETMB) indicates that 432 practicing massage therapists are currently accredited by the NCBTMB in Indiana. If the fee for licensure was set to recoup the minimum cost of the Board and an additional COMOT 3 position, the fee would be \$89. The estimate does not include therapists that may have substantial equivalence in another state. The Board would be responsible for the establishment of a reasonable fee.

The bill allows the Board to issue a license to any applicant that enrolled in, before March 1, 2003, (and completes before January 1, 2004) a 500-hour massage therapy school or program that was in good standing with any state, regional, or national government that regulates massage therapy or programs. Massage therapists attending or finishing an out-of-state recognized school or program within the above time limits would be able to more easily receive a license to practice massage therapy in Indiana. Any impact to fees collected would be determined by the number of massage therapists choosing to apply for licensure in Indiana that qualify under this provision.

The bill also allows the Board to impose a penalty up to \$5,000 on any person who: practices, or offers or attempts to practice, massage therapy without being licensed; or aids or employs a person not authorized to use the professional title. This penalty is in addition to any other penalty provided for by law.

All revenue collected from fees from the licensure of massage therapists would be collected and accounted for by the HPB and deposited in the State General Fund.

*Summary* - As a prerequisite to licensure, the applicant must be accredited by passage of the National Certification Exam for Therapeutic Massage and Bodywork (NCETMB), an equivalent massage examination

accredited by the National Commission of Certifying Agencies (NCCA), or an exam created and approved by the Board. The NCETMB is currently accredited by the NCCA. NCETMB accredited status expires with the NCCA on December 1, 2003. If a massage therapist has been credentialed by another state within the five years immediately preceding the submission of an application to the Board, and the state has standards for massage therapists that are substantially equivalent to Indiana's standards, then the applicant would automatically qualify, unless there were any additional requirements established by the Board. If a massage therapist holds a current certification issued between June 30, 1998, and July 1, 2003, from the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) or another agency that meets standards set by the NCCA, then the applicant would be able to receive a license before July 1, 2005.

*Penalty Provision* - Violations of the licensure provisions would constitute a Class C misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class C misdemeanor is \$500. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

**Explanation of Local Expenditures:** *Penalty Provision* - A Class C misdemeanor is punishable by up to 60 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

**Explanation of Local Revenues:** The bill repeals the fee involved for the required fingerprinting of massage therapists. Local law enforcement units were involved with the fingerprinting and fee collection. Localities would lose revenue as a result of the removal of the fee, but would have corresponding reduction in expenditures. This bill also provides that state law relating to massage therapy supercedes an ordinance or regulation adopted by a municipality or county related to the licensing or registration of massage therapists. However, state law does not affect local regulation relating to occupational license fees adopted by a municipality or county pertaining to massage therapists.

*Penalty Provision* - If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

**State Agencies Affected:** Health Professions Bureau

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** National Certification Exam for Therapeutic Massage and Bodywork, [www.ncbtmb.com](http://www.ncbtmb.com); National Commission of Certifying Agencies.

**Fiscal Analyst:** Valerie Ruda, 317-232-9867